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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/746,901 11/18/96 ELLIOTT

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EXAMINER

LM02/0413

L. KEITH STEPHENS  
WARREN, PEREZ & STEPHENS  
8411 PRESTON ROAD, SUITE 710  
DALLAS TX 75225

NGUYEN, S

ART UNIT

PAPER NUMBER

2731

DATE MAILED:

04/13/99

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**08/746,901**

Applicant  
**Elliot**

Examiner  
**Steven Nguyen**

Group Art Unit  
**2731**



☒ Responsive to communication(s) filed on Nov 18, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-18 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-18 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 1

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 2731

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 2, 8, and 14 are objected to under 37 CFR 1.75 as being a substantial duplicate of claims 6, 12 and 18. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Line 6, the recitation "the packet network" is vague and indefinite because it does not refer to any previous element.

Art Unit: 2731

*Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang (RFC 1789) in view of Montgomery et al (USP 5781620).

Regarding claim 1, 7 and 13, Yang discloses a plurality of gateways and call router which connects the switched communication network and the packet network (Page 1-5, Yang discloses a plurality of gateways and a call router connected between the telephone network and computer network to allow a caller to communicate with the other caller in which the call router used to route a call from source to destination and the gateways used to perform the protocol converter such as convert analog voice to data voice to transmit in the Internet etc . . . ). Yang fails to

Art Unit: 2731

disclose a logic which transmits a query message which includes a call type of service to the directory service to obtain a plurality of gateways that match the predefined call service criteria; querying each of the plurality of gateways to determine a network topology to service a call; ranking the plurality of gateways based on the network topology and the call service criteria and utilizing the selected gateway to service a call. However, in the same field of endeavor, Montgomery teaches a method of receiving a call type of service (such as video, voice, data etc . . . ); the call router transmits a query message which includes a type of call service to directory service to obtain a plurality of gateways which match the predefined a call service criteria (database of ISCP, in the message which includes a destination address, call type, a plurality of gateway (carriers) that matching the call type of service) and querying each of the plurality of gateways (carriers) for the least cost routing( read on network topology); ranking the plurality of gateways according to the network topology and the service call criteria and utilizing the selected gateway to service the call (See Fig 1-2c, Col 4, line 10-42; Selecting a carrier which meet the call type and least cost routing to transmit the data).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply the teaching of Montgomery et al such as a call router generates a query message to obtain a list of carriers which meet the requirement of the call and obtain a low cost to transmit the data from a source node to a destination node into the method of Yang. The suggestio/motivation would have been to reduce the cost of transmitting a data.

Art Unit: 2731

Regarding claims 2-6, 8-12 and 14-18, recognizing the use of Internet protocol would have been explicit to one of ordinary skill in the art such as ping, trace route, packet latency and echo packet to debug, obtain the number of hops which data packet must be travel from a source to a destination node etc . . .

*Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Farris (USP5541917) disclose video and telco network control functionality.

Williams (USP 5883891) disclose a method of obtaining a altering routing path for a data packet over internet.

Rondeau (USP 5850433) disclose a system and method for providing a directory service.

Aggarwal et al (USP 5675741) disclose a method and apparatus for determining a communications path between two nodes in an internet protocol.

Gervais et al (USP 5856974) disclose a method for internetwork mapping address gateway.

Nelson et al (USP 5835720) IP discovery method and apparatus.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Nguyen whose telephone number is (703) 308-8848. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM.

Application/Control Number: 08/746901

Page 6


Art Unit: 2731

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham, can be reached on (703) 305-4378.

The fax phone number for this group is (703) 305-3988.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.

Steven Nguyen  
Art Unit 2731  
April 9, 1999

  
CHI H. PHAM  
SUPERVISORY PATENT EXAMINER  
GROUP 2700  
4/12/99